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ABSTRACT

This paper summarizes the historical foundations for the financing and maintenance of Texas' present day school system. This review traces the history of Texas public education from the seventeenth century through 1949 when three major school reorganization laws were enacted by the state legislature. The earliest schools in Texas were associated with the Spanish missions and were intended to educate (and control) the Indians. Education suffered under the Mexican regime, which failed to provide funds for schools. The Republic of Texas set up a public school system based on land grants to counties. This funding approach was later employed when Texas entered the Union and continued until the Civil War brought havoc to public education. However, after Reconstruction, the 1875 state constitution provided for a perpetual school fund based on property and poll taxes as well as for a state board of education. Independent school districts emerged. Finally in 1949, the state legislature mandated that 12 years of schooling for all children are mandatory and gave the state board of education more power. (DS)

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THE DEVELOPMENT OF FREE PUBLIC SCHOOLS IN TEXAS

-by-

I. Thomas Holleman, Jr.

1973

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The Development of Free Public Schools in Texas: A Historical Approach

I. Education Under the Spanish Regime

Among the early seeds of civilization that were sown by the Spaniards in the New World, there was none so important as education. At this time in the early history of Texas, there was perhaps no nation in the world that outranked Spain in the level of her educational institutions and her national zeal for teaching and learning. Naturally, with the coming of the Spaniards to Texas, the early conquistadores and the priests that accompanied them did not lack the educational zeal that was then characteristic of their nation. This zeal was transferred to Texas soil. The conquistadores utilized education for the purpose of controlling the Indians. At the same time, the priests, who were mainly of the Jesuit and Franciscan orders, used education for the enlightenment and indoctrination of the Indians in the Christian faith.

Early in 1503 the Spanish policy toward the education of the Indians was established. Indians were to be established in villages and given land on which they were to remain permanently. The Indians were placed under the control of a protector who in turn provided a schoolhouse

in which the children could be taught reading, writing, and the Christian doctrines. Suppressing native ceremonies, the protector made the Indians conform to the Christian form of marriage and also encouraged intermarriage of the Spaniards with the Indians. This Spanish policy of Indian control is known as the encomiendas system. The brutal fact is that this system was characterized by compulsory labor for the Indians which was in some cases little more than slavery. Also the natives were mercilessly regimented into the task of being 'civilized.'[1] The earliest known attempt to civilize Texas was made by the Jesuits in 1582 when they established missions at El Paso for converting and educating the Indians.[2] This effort was unsuccessful.

The first mission to be established in Texas with any token of success was the Mission of San Francisco de los Tejas. It was founded in 1690 in what is now present day Houston County, a few miles west of the Neches River and about 21 miles from present day Crockett. Hostile Indians, epidemics, and drouth forced the Franciscans to

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[1] C. E. Evans, The Story of Texas Schools (Austin: The Steck Company, 1955), pp. 10-11.

[2] J. J. Lane, History of Education in Texas (Washington: Government Printing Office, 1903), p. 15.

dedication it on October 25, 1693.[3] One of its original bells is now on display in the Texas Room of Carroll Library on the Baylor University Campus.

Between 1720 and 1746 missions were established in Central Texas by other Franciscan padres from Mexico. Some missions established by the French remained in operation till 1812 when they were suppressed by Spain and the Indians adhering to them were dispersed.[4] The period of 100 years from the establishment of the first mission in 1690 until that of the last one at Refugio in 1791, saw the founding of 27 missions.[5]

Early Franciscan missionaries often built a school beside each church, reduced native languages to writing, and helped the Indians to learn reading and writing. Pedro de Gante, the first educator of the New World, established the first school for Indian children at Texcoco in 1523, and one in Mexico City in 1529.[6] The first school on Texas soil other than mission or parish in origin was

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[3] Evans, op. cit., p. 13.

[4] Lane, op. cit., p. 15.

[5] Evans, op. cit., p. 11.

[6] Ibid., p. 15.

opened at Laredo in 1783.[7] Several of the old missions still stand as a monument to the dedication of the early padres.

II. Schools during the Mexican Era, 1821-1836

Texas, Spanish territory for more than two centuries, became a Mexican state in 1821. The Mexican Revolution had begun in 1810. The Mexican people at once set about to form a Federal Republic patterned after the newly created government of the United States. Under the new government, Texas was joined to Coahuila, lying south of the Rio Grande, forming one enormous state with the capital at Saltillo. Texas-Coahuila was just one of 19 states. Texas was partitioned into three 'departments' which were named Bexar, Brazos, and Nacogdoches. The capitals of these departments were located respectively at San Antonio, San Felipe de Austin, and Nacogdoches. The government of the state was placed under the charge of a congress, but local affairs were to be handled by the departments.[8]

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[7] Cole R. King, "The History of Basic Education for Illiterates in Texas" (unpublished Master's dissertation, Department of Education, Baylor University, 1966), p. 1.

[8] Frederick Eby, The Development of Education in Texas (New York: The MacMillan Company, 1925), p. 65.

The Federal Constitution of Mexico provided for military and naval training and for higher education, especially along the lines of natural and political sciences.[9] The Constitution further provided for: 1) The establishment of primary schools in all towns; 2) teaching of reading, writing, counting, and catechism of the state religion and of political rights and obligations; 3) the establishment of secondary schools of arts and sciences, and 4) the formulation by congress of a uniform plan to regulate public instruction.[10] Unfortunately these ideals were not to be carried out because the responsibility was shifted to the states. The states had no educational fund so they shifted the load to the local government or the ayuntamientos who were incapable of carrying out such a responsibility. The result was inadequate schools. The Roman Catholic religion was adopted as the official religion of Mexico and the exercise of another was strictly forbidden. The emphasis on religion and the total lack of religious freedom was to seriously retard the growth of schools.

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[9] Ibid., p. 66.

[10] Evans, op. cit., p. 23.

In 1827 the Constitution of the State of Texas-Coahuila was adopted. This State Constitution contained the same provisions for education that were embodied in the Federal Constitution. A few months later the Congress passed a measure that ordered the ayuntamientos to establish such schools as the law demanded. The ayuntamientos were given the burden of designating the means by which funds should be raised for the schools. They were also required to appoint committees to visit the schools weekly and to report their condition to the government every six weeks.[11]

With the coming of the Anglo-Americans into Texas a decree was issued regulating colonization in the Republic. According to the decree every empresario who established a colony was required to make provisions for schools. This order of September, 1827, set aside a block in each town for a school. This was patterned after the ancient Roman practice of founding new towns. San Felipe de Austin, Bastrop, Gonzales, and Victoria were among the towns actually designating the blocks for schools.[12]

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[11] Eby, op. cit., p. 67.

[12] Evans, op. cit., p. 26.

In 1828 the ayuntamiento of San Antonio passed the ordinance establishing a "public free primary school," an elaborate school law providing minute details of management and organization. Municipal grants and private subscriptions would be used to provide full financial support. The school would be free to all children and fees of all kinds for students were forbidden.[13]

Little was to be accomplished in spite of this legislation. To remedy this grave situation, Congress, in 1829, passed a more comprehensive measure that required the establishment of "Lancastrian schools" of mutual instruction in the capital city of each department of the state.[14] A decree of 1830 directed the establishment in the most central places of six primary schools on the basis designated in the law of 1829.[15] Under this law several schools came into existence, notably the one at Nacogdoches.

The Lancastrian schools had been quite successful in Mexico. Yet, for various reasons, all efforts failed

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13 Ibid., p. 28.

14 Eby, op. cit., p. 68.

15 Evans, op. cit., p. 25.

to introduce this system into Texas, and not a single school of this type was established in accordance to the law of 1829.

Quite frequently the schools declined with the decline of the Spanish towns. For instance, San Antonio, which claimed 5000 citizens in 1806, had but 2400 prior to the Texas Revolution. At La Bahia (Goliad) the inhabitants all sought to leave.[16] Conditions were indescribably bad during the early 1830's and the schools suffered.

The Congress of Texas-Coahuila was always in a state of financial embarrassment. However, there is one recorded instance of direct governmental support of a school. In January, 1828, the governor bought 100 charts, 36 catechisms, and other supplies out of public funds for the maintenance of the school that had been founded at San Antonio. This was to be the first instance in which free textbooks were supplied the children in this state.[17]

The importance of the Mexican era in influencing the later development of free public schools in Texas cannot be minimized. The decrees of the Mexican state of

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[16] Eby, op. cit., p. 68.

[17] Ibid., p. 68.

Texas-Coahuila, which were modeled after the educational agencies and policies already active in Spain, were forces in moulding public sentiment for better school conditions. The coming Republic of Texas was to build and expand upon the achievements of both Spain and Mexico and was therefore able to make rapid progress in the area of public education.

Texas, in the early 1830's, had two antagonistic groups living within its boundaries. There was the Spanish-Mexican group that was steeped in the Spanish-Indian traditions of government and religion, and the Anglo-American group accustomed to a true democracy with its freedoms of press, speech, and religion. The friction caused by different languages and customs was further accentuated by the unstable leadership of Santa Anna. No true political unity was possible.

The political situation became almost unbearable for the Anglo-Americans in 1830. The Mexican Congress became panicked over the Fredonian Rebellion of 1826. In order to avoid another conflict, the Law of April 6, 1830, was passed. This law prohibited the settlement of more Americans in Texas except in Austin's and DeWitt's colonies, located Mexican convict settlements in Texas, sent

Mexican soldiers into Texas for local police purposes, and levied tariffs on imported goods not bought in Mexico.[18]

In Texas, the Anglo-American segment of the population held a convention in October, 1832, at San Felipe de Austin, which, though strongly denounced by the Castillian population as disloyal, boldly petitioned the state government for an endowment to establish primary schools for better education of their children.[19] Among those who attended were Stephen F. Austin, Wm. H. Wharton, John Austin, Ira Ingram, Luke Lesassier, Chas. S. Taylor, Claiburne West, and Wm. Menefee. Among other resolutions adopted was one to the governor and the legislature of the state. This resolution demanded an adequate fund to encourage public education. It stated:

> ". . . your memorialist pray a grant of as many leagues of land, for the promotion of education, as the Legislature, in its liberality, shall think proper to bestow; to be made to Texas as the foundation of a fund for the future encouragement of Primary schools, in Texas, in which will be taught the Castillian and English Languages. . ."[20]

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[18] Evans, op. cit., p. 41.

[19] E. H. Poteet, "History of the Public School Lands of Hidalgo County, Texas" (unpublished Master's dissertation, Department of Education, Baylor University, 1933), p. 9.

[20] Eby, op. cit., p. 70.

In December of that same year some Mexican citizens of San Antonio sent a similar protest to Congress complaining about the impoverished conditions of their schools. They charged that Congress had always put them off with specious regulations which in the end required the people themselves to bear the burden.[21]

Spurred by these petitions, the Mexican state of Coahuila-Texas passed a decree of April, 1833, that formulated means for the establishment of primary schools within six months. This decree created a junto composed of the police chief, the parish curate, and a resident citizen appointed by the executive.[22] This junta was to exercise authority compatable to that of the present day district school board. The decree also granted four leagues, or 17,712 acres of land to Nacogdoches for the endowment of a primary school. Geography and good manners were added to the curriculum. Schools were to be established in all towns by the ayuntamientos. One half of the income of all municipal funds up to $2000 was to be set aside for education. The revenue arising from the renting of public

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[21] Ibid., p. 71.

[22] Evans, op. cit., p. 25.

domain were also to be used. These provisions of the decree of 1833 were far-reaching for the time but the vast resources of the public domain were not set aside for the schools.[23]

In the Spring of 1834, while Austin was still in a Mexican prison, the supreme government of Mexico commissioned Colonel Juan Almonte to visit Texas on a fact-finding mission to report on current economical, political, and educational conditions. In regards to schools, the Almonte survey found that at this time the department of San Antonio de Bexar had one school in the capital supported by the city government, but with funds so limited as to render maintenance almost impossible. The department of Nacogdoches had 3 public schools, one of which was poorly supported. San Felipe de Austin was the capital of the department of the Brazos, the location of the colonies of Austin and De Witt. It had a school which was poorly attended. Many students in this area attended schools in the United States.[24]

The early colonial schools that were established

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[23] Eby, op. cit., p. 71.

[24] Evans, op. cit., pp. 31-32.

by the Anglo-Americans were few in number and were in reality private enterprises. These schools were called "old field" or "cornfield" schools and were largely confined to elementary instruction. None of them attained distinction. The chief pioneer schoolmaster in early Texas was Thomas Jefferson Pilgrim who established the first school in Brazoria County near Columbia. Other pioneer teachers were Gail Borden, the inventor of condensed milk, and Luke Lesassier, alcalde at San Felipe de Austin.[25]

Professor Frederick Eby of the University of Texas and one-time professor at Baylor University compiled these reasons for the failure of Mexican educational measures: 1) The people suffered from extreme poverty. The state treasury was also in a condition of chronic bankruptcy. 2) The towns suffered frequently from Indian raids and from diseases which decimated the population. 3) It was impossible to secure qualified teachers. Books and instructional supplies were scarce. 4) The Catholic Church was interested only in religious training; and 5) the officials on the whole were men of high intelligence and

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[25] Eby, op. cit., p. 77.

easier to promote education but the people generally were not interested in learning.[26]

III. The Development of Public Schools from Independence to the Civil War, 1836-1861

The Declaration of Independence signed at Washington-on-the-Brazos, Texas, on March 2, 1836, was the result of a deepening sense of wrongs suffered during the years of Mexican rule. The neglect of public education was one of the chief grievances voiced against the Mexican government.[27] In the Declaration this charge was made against the Mexican Republic:

> It (the Mexican government) has failed to establish any public system of education, although possessed of almost boundless resources (the public domain) and although it is an axiom in political science, that unless a people are educated and enlightened, it is idle to expect the continuation of civil liberty, or the capacity for self-government.[28]

At first glance this charge made by the revolutionaries seems highly unjust, if not totally groundless. The state government of Texas-Coahuila had bent over backwards

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26 Ibid., p. 74.

27 Poteet, op. cit., p. 9.

28 Eby, op. cit., p. 79.

to provide the basis for an efficient school system in Texas. Their concepts of education had been far in advance for the age. Only the financial instability of the state had prohibited these goals from being realized. This was really no fault of the struggling government. Perhaps Frederick Eby presented the best solution to this problem. He made this defense of the founders of the Texas Republic:

> Only when we consider the high degree of culture, the progressive political philosophy, and the lofty ideals of individual and social life which animated the leaders of the Texas people, does the explanation of the charge become clear.[29]

The defeat of Santa Anna at the Battle of San Jacinto on April 21 resulted in the immediate establishment of the Republic of Texas. The Constitution of the Republic of Texas, adopted March 17, 1836, made it "the duty of Congress, as soon as circumstances will permit, to provide by law, a general system of education."[30]

In September, 1836, at the first election held

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[29] Ibid., p. 80.

[30] Edgar W. Knight, (ed.), A Documentary History of Education in the South before 1860 (Chapel Hill: University of North Carolina Press, 1950), II, 138.

after the Battle of San Jacinto, the Texans voted for annexation with the United States. But the United States Congress forbade them admittance in 1837. This rejection was caused by the anti-slavery element in the North and East which was unwilling to see new slave holding states admitted. Thus the newly formed Republic of Texas was to exist as a separate and sovereign nation till its admission to the American Union on February 16, 1846.[31]

As a result of their failure to gain acceptance by the United States Congress, the Texas government was forced to largely neglect its schools and devote itself to more pressing problems. For instance, the organization of the various departments of the government, the preparation of a national defense against Mexico and the Indians, and the financial and commercial instability of the new government were problems that had to be dealt with before the attention of the legislature could be turned to public schools.

In June, 1837, President Houston approved the charters of Independence Academy and the University of San Augustine, both in San Augustine County, and Washington

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31 Clarence Wharton, The Lone Star State (Dallas: The Southern Publishing Company, 1932), p. 181.

College, near the town of Washington-on-the-Brazos. The charters provided that they should be accessible to all students, irregardless of religion or political beliefs. The property of such early private institutions was generally but not always exempt from taxation. In some cases special provisions were made for Biblical instruction when the charters were for church supported institutions. In other instances the charters prohibited the sale of alcoholic beverages near the school campus.[32]

A Committee on Education presented a lengthy report to Congress during January, 1839, and also introduced a bill which was passed in that same month, laying the foundation for the endowment of public education. The formulation of this report must be largely credited to a Presbyterian minister, the Reverend W. Y. Allen, a graduate of Princeton University. He made a strong presentation emphasizing the value of public education. He called attention to the failings of the former Congress and the benefits to be derived from a good educational system.[33]

The Act of 1839 granted three leagues (13,284 acres)

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[32] Lane, op. cit., p. 26.

[33] Eby, op. cit., p. 87.

to each county for the establishment of a primary school or academy in the county, and 50 leagues (221,400 acres) for the establishment and endowment of two colleges or universities, one in the eastern and the other in the western part of the state.[34] By an Act of 1840 the Congress increased the land grant to counties by granting another league, making in all four leagues (17,712 acres) for each county. The law stipulated that the land should be divided, one half for scientific endowment of an academy and the remainder to be distributed among the various common school districts in the county.[35]

The Act of 1840 also created a Board of School Commissioners in each county which was composed of the chief justice and his associates. This board was given the authority to divide the counties into school districts, to examine candidates for teacher's certificates, and to inspect and supervise the schools.[36]

This legislation was not too successful at first. Land was very cheap. It also took time to sell or rent

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34 Lane, op. cit., p. 26.

35 Ibid., p. 27.

36 Eby, op. cit., p. 88.

the school property. The citizens of San Antonio, in 1844, grew impatient and took matters into their own hands. They concluded that the city should provide a public school. It was recommended that the old court room be utilized for school as well as court purposes. But even this goal would not be realized until 1849 when some lots set apart by the city for school sites were sold and the proceeds used for improving the building.[37]

It must be remembered that Texas was still a frontier and naturally frontier conditions prevailed. No legislation could change this. George Conclin, an adventurer and historian in Texas during the early 1840's, had this advice for those who were considering settling here:

> Large emigrating parties will always do best; and among the many reasons for this opinion, I will mention the advantages of uniting in one settlement men of different occupations, which would greatly contribute to the convenience of all. A teacher, and when practicable, a minister of the gospel should be included, there being as yet even in thickly populated districts, few persons who devote their time to such pursuits; and on the frontiers where the strongest inducements for settlers are found, schools and houses of devotion or persons to officiate are entirely out of the question.[38]

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[37] Lane, op. cit., p. 25.

[38] George Conklin, A New History of Texas (Cincinnati: Published and Sold by George Conclin, 1848), p. 188.

The 1840's are also known for the educational reform movement that was sweeping across the United States. Because of the crusade for free public schools many states had rewritten their constitutions and their school laws. Texas was greatly affected by this tide of educational reform. It so happened that at this particular time Texas was once more making its bid for statehood. The opportunity was ripe for including the latest educational advances in a new constitution.

The article on education in this new Constitution of 1845 was far more elaborate than the simple educational provision of the Constitution of the Republic. The Constitution of 1845 made these provisions for free public schools:

> A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the legislature of this State to make suitable provision for the support and maintenance of public schools.
>
> The legislature shall, as early as practicable, establish free schools throughout the State, and shall furnish means for their support by taxation on property; and it shall be the duty of the legislature to set apart not less than one-tenth of the annual revenue of the State, derivable from taxation, as a perpetual fund, which fund shall be appropriated to the support of free public schools; and no law shall ever be made diverting said fund to any other use . . .

> The several counties in this State which have not received their quantum of lands for the purposes of education shall be entitled to the same quantity heretofore appropriated by the congress of the Republic of Texas to other counties.[39]

In 1848 the legislature passed an act as required by the Constitution which set aside one tenth of the annual revenue which was allowed to accumulate in the state treasury for free public schools. The Constitution had made provision for two types of schools, "public" and "free." For the public schools no special funds were fixed; for the free schools, one tenth of the annual revenue was reserved. Frederick Eby gives this interpretation of the two terms:

> The mention of "public schools" in the Constitution was not a proposal for free tuition for all children or the principle of general taxation for popular education or a system of state-owned and supported schools. It was a measure included to appease the advocates of private and church schools who fully expected the State to assist in promoting their particular enterprises.
>
> The second section provided for "free schools" by taxation on property. The private and church school advocates favored this policy as a wise charity for the education of the orphaned and indigent. They did not expect free schools to be organized for this

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[39] Knight, op. cit., II, 138-139.

> class of children, but merely that their tuition would be paid by the state and that they would attend the existing institutions. On the other hand, the advocates of free schools for all children accepted the language of this section which apparently supported their policy.[40]

At this period in Texas there were apparently four concepts of educational organization. They were: 1) education in the home, 2) the parochial concept, 3) the free state school policy for all, and 4) the charity concept of education for indigent children.

In 1850 a law was enacted giving four leagues of land, about 18,000 acres, to each county that had been organized since 1840. Four leagues were also to be given to any county organized after 1850.[41]

The middle of the Nineteenth Century was a time of boom for the new State of Texas. The hardships of colonial days were passing away. Texas now had security and stability as a member of a strong and growing nation. The lawmakers in optimism could begin to focus their attention on internal improvements. However, the legislature was forbidden by the Constitution from engaging directly in

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40 Eby, op. cit., p. 107.

41 Wharton, op. cit., p. 305.

any commercial venture. A system of transportation was badly needed to ensure the quick growth of the state.

In order to directly aid the growth of railroads in Texas without violating the Constitution, it was proposed to set apart a large proportion of the five million dollars that had been received through the sale of territory to the United States government in 1850. Two million dollars of this money was to be set aside in a school fund and the money could then be loaned to the railroads while the schools would profit from the interest on the loans. Both the schools and the railroads would prosper.

Therefore, on January 31, 1854, the first law creating a free public school system for the entire state was passed. This important law had four significant features: 1) A permanent school fund was established. 2) Provisions were made for the immediate organization of common schools. The state treasurer was appointed ex officio superintendent of common schools and was charged with carrying out the law. The county judge and commissioners were to constitute a county school board. This board was instructed to divide each county into convenient school districts and see that three school trustees were elected in each district. The county tax assessor was charged with taking

the scholastic census; the age limits were set at six to sixteen years. Only those districts could benefit from the state permanent fund which had "provided a good, and substantial schoolhouse with the necessary seats and other fixtures." State aid was to be given on a per capita basis. 3) Pauper schools were to be utilized. Provisions were made for the tuition of the indigent and orphaned children in each county. 4) Private schools could now be converted into common schools. The district trustees were instructed that there was nothing that could prevent them,

> after being instructed by the majority of the patrons of the school, from employing the teacher of a primary department in any college or academy and converting such primary department into a common school for such district.[42]

The interest that was accrued from the loaning of the money from the public school fund to the railroads was not enough to support the public school system. Thus it was arranged by point four of the law of 1854 that certain departments of colleges might become a part of the public school system and that the buildings of churches, lodges, and private schools might be used by the public

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[42]Knight, op. cit., II, 236-241.

schools. In this way schools were made available for most of the children of the state.

IV. The Effect of the Civil War and Its Aftermath on Public School Development, 1861-1875

The Civil War brought havoc to the public school systems in Texas. The public schools ceased to exist. A very small amount of public funds, sixty-two cents per capita, was distributed for the last time during the first year of the struggle.[43] The school fund was dissipated and squandered. Before the war began the state government had loaned thousands of dollars of the school money to the railroad companies. During the war the railroads became so run down that the companies could not continue to repay the loan. To make matters worse, the government permitted the use of the school fund in financing the war. This money was never to be restored to the fund.[44]

The "secession convention of 1861" adopted the Constitution of 1845 with such amendments as were required to conform the government to war necessities. No important change was made in the Constitution in its educational

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[43] Eby, op. cit., p. 150.

[44] Joseph L. Clark, The Story of Texas (Boston: D. C. Heath and Company, 1955), p. 359.

provisions, but this Constitution had had little to say about education in the first place.[45] The Law of 1854 was not rescinded but it was of little value without funds. A Constitution was also formulated in 1866. It was a Civil War document and contained the same 1845 provisions.

Another Constitution was adopted in 1869. It was a semi-military document and was not representative of the educational concepts of the Texans.[46] This constitution had been compiled by the carpetbaggers. The radicals, as they were called, took it upon themselves to reform the lapsed school system of Texas. As Republicans they set themselves to the task of redeeming the school fund and of organizing a universal free school system for the first time in the history of Texas.

Under the new Constitution of 1869 the plans of the radicals to reorganize the school system were presented. These plans were passed by the legislature in the Law of August, 1870. This legislation provided free schools for children between the ages of six and eighteen. The office of State Superintendent was created; school districts

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45 Lane, op. cit., p. 29.

46 Evans, op. cit., p. 7.

were formed and school boards named for those districts. School attendance for at least four months a year was made compulsory. A State Board of Education was set up and given control of the entire system. The board was composed of the governor, the superintendent, and the attorney general. To pay the expenses of the new school system the radicals established a Permanent School Fund, only the interest from which was to be spent. Money for the fund was to come from the sale of public lands.[47] Nearly all the features of a modern school system were provided.

In addition, there was to be an Available School Fund. From this fund was to be drawn the money to run the schools. The Available Fund was to be made up from several sources: 1) income from the Permanent Fund, 2) one-fourth of the money received from general taxes on property, 3) a poll tax of one dollar on every voter under sixty years of age, and 4) money from local and community taxes. These four sources of income were designed to provide enough money to build the necessary schoolhouses and funds necessary to run the schools for ten months each year.[48]

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[47] Clark, op. cit., pp. 360-361.

[48] Ibid.

Owing to the unpopularity of the authors of this legislation, the Law of 1870 was treated with indifference and open contempt. Few schools were organized. The radicals were angered. In retaliation they enacted the drastic Law of 1871. This law set up the most imperial educational system ever known by any American state. It was to be organized along military lines and assumed absolute authority over the training of children. A State Board of Education was provided, consisting of the superintendent of public instruction, the governor, and the attorney general. This board was empowered to act in place of the legislature in school affairs.[49]

The methods used by the then Governor Davis and the radicals were very hard on the people. For state superintendent, Davis appointed Colonel DeGress. DeGress had been an officer in the Federal army and had never taught school. The new superintendent sppointed the district supervisors, the members of the district school boards, and the teachers. Often those he appointed were not qualified. The main criticisms of DeGress's management of the schools were that he showed favoritism to some of the teachers, that he was

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[49] Eby, op. cit., p. 154.

undemocratic, and that he through extravagance and dishonesty wasted much of the school funds.[50]

The Democratic Party returned to power in 1873, and a new school law was enacted which began the destruction of the radical system. By this law the control of the schools was taken out of the hands of the state superintendent and board by abolishing their offices and the control was returned to the people.[51] The public educational condition had become completely chaotic. In fact the United States Commissioner of Education, John Eaton, Jr., called Texas "the darkest field, educationally, in the United States."[52] Attendance in the schools fell from 56.9 per cent in 1872-1873 to 38 per cent in 1873-1874. In 1875 no reports were made.[53] The people had reverted to private schools of the old type that had existed in ante bellum days.

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50 Clark, op. cit., p. 361.

51 Eby, op. cit., p. 168.

52 Texas State Teachers Association, One Hundred Years of Progress in Texas Education, A Report of Centennial Progress by the Texas State Teachers Association (Austin: The Texas State Teachers Association, 1954), p. 9.

53 Eby, op. cit., p. 168.

V. The Establishment of the Present Day School System, 1875-1949

Governor Davis was succeeded in office by Richard Coke. In 1875, while Coke was governor, a new constitution was written and ratified in 1876. As this constitution is the present Constitution of the State of Texas, perhaps its educational provisions should be noted:

> Article VII. Section I. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provisions for the support and maintenance of an efficient system of public free schools.
>
> Section 2. The perpetual school fund.
>
> Section 3. . . . one fourth of the State occupational taxes and a poll tax of $1.00 on every male between the ages of 21 and 60 years shall be set apart annually for the benefit of public free schools, and in addition an annual ad valorem State tax of such an amount, not to exceed 20¢ on $100 valuation.
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> . . . . . .
>
> Section 7. Separate schools for Negroes and Whites.
>
> Article XI. Section 10. The Legislature may constitute any city or town a separate and independent school district. And when the citizens of any city or town have a charter, authorizing the city authorities to levy and collect a tax for the support and maintenance of a public institution of learning, such tax

> may hereafter be levied and collected, if, at an election held for that purpose, 2/3 of the taxpayers of such city or town shall vote for such tax.[54]

Under the Constitution of 1875 the office of State School Superintendent was abolished; his duties were to be carried out by the Secretary of the Board of Education. The Fifteenth Legislature had the task of prescribing the duties of the State Board of Education. This Act of 1876 made the Governor of the State the President of the State Board of Education. The Board was also authorized to appoint a secretary whose salary was to be $1500 annually. This secretary was to perform such duties as the board required.[55]

The Law of 1876 permitted incorporated cities and towns to form independent school districts. Cities and towns assuming control of their schools were to receive their share of the available school fund. The title to

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54 Department of Education, Revised School Laws of the State of Texas by W. F. Doughty, A Report Prepared by W. F. Doughty of the Texas Department of Education (Austin: Department of Education, 1913), pp. 3-5.

55 Jefferson Davis Bragg, "A History of Certain Phases of Texas School Legislation, 1876-1923" (unpublished Master's dissertation, Department of History, Baylor University, 1924), p. 3.

all school property rested with the town council or board of aldermen who could purchase property for school purposes but could not dispose of it without the consent of the State Board of Education. This legislation also permitted the Independent School District to raise by local taxation an amount not to exceed 1 per cent on the city assessment of taxable property. It was required that two-thirds of those paying a tax on property should vote for a school tax before it could be levied.[56]

In 1884, the Legislature again established the office of Superintendent of Public Instruction. B. W. Baker was the first superintendent after Reconstruction. After 1887 the law was changed so that the citizens might elect, in addition to the state superintendent, county superintendents. These officers would have control of all schools in the county, except those in independent districts. The independent districts would have their own superintendents. After 1907 the election of a county superintendent was made compulsory in all counties that had as many as 3,000 school children. In 1911 a law was passed requiring the election of five county school trustees. They were to

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[56] Ibid., pp. 43-45.

work with the county superintendent in general oversight of the schools.[57]

As early as 1875 the State passed legislation that would encourage the establishment of high schools. This law permitted cities to increase their school tax in order to finance the secondary school. The first city to found a high school was Brenham. Three years later Houston established what was called a normal high school. Within a few years there were high schools in Dallas, San Antonio, Galveston, El Paso and elsewhere.[58]

In 1935 there were 1149 classified and accredited high schools in Texas. It should be noted that the high school developed without specific encouragement on the part of the State. The first law specifically recognizing high schools was the Rural High School Law of 1911. Until 1916 the work of standardizing and affiliating high schools was carried on by the University of Texas. The first junior high school in Texas was established at Houston in 1912.[59]

In 1929 the legislature created a new State Board

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[57] Clark, op. cit., pp. 361-362.

[58] Ralph W. Steen, History of Texas (Austin: The Steck Company, 1939), p. 418.

[59] Ibid.

of Education, which consisted of nine members who were appointed by the governor for a term of six years. They met every three months, or oftener if they were called by the chairman. The members got $10 a day and their expenses while the board was in session. The chief duty of the new board was to study the needs of the public schools and the state supported colleges. From this study the board was to make recommendations to the governor and the legislature for the support and improvement of the institutions. The board was also to supervise the investment of the school funds. The selection of textbooks was another of its many functions.[60]

Three school laws were passed by the legislature in 1949. They were called the Gilmer-Aiken Laws after the bill's sponsors, Representative Claude Gilmer, and Senator A, M. Aiken. Several important changes were made by these laws: 1) The name of the State Department of Education was changed to The Texas Education Agency. 2) The title of State Superintendent was changed to Commissioner of Education, and that official was given more responsibility than the superintendent had exercised. 3) The Board of

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60 Clark, op. cit., pp. 363-364.

Education was given more authority. Now its members were to be elected by the people. 4) The Gilmer-Aiken Laws provided what is called a "minimum foundation program of education" in the public schools. They also guaranteed twelve years of schooling for nine months each year for all children beginning at age six. 5) Arrangements were made for better salaries for teachers to be based upon their training and their teaching experience.[61]

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61 Ibid., p. 364.

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